IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.l833 of 2005

Popatlal B Vaidya by his LRs...Petitioners
vs
Smt Parubai N Padthare by his LRs... respondents

Mr. S N Chandrachud for petitioners
Ms P.N.Diwan for Mr Joshi for respondents

CORAM: A.P.SHAH J.
Dated 24.l0.2005

P.C:

. The petitioner is the tenant and the respondent is the landlord in respect of a one room tenement. The said premises are situated outside Pune city and the Bombay Rent Act was not applicable at the relevant time. The landlord after terminating the tenancy of the petitioner vide notice dated 2l.l0.l994 filed the present suit for possession. The suit was decreed by the trial court and the said decree was confirmed by the district court.

. The learned counsel appearing for the petitioner contended that during the pendency of the appeal the suit premises were included within the limits of the Pune Municipal Corporation with effect from l.9.l997 and by virtue of inclusion of the said premises within the municipal limits the provisions of the Bombay Rent Act would automatically apply to

the suit premises and therefore the tenant is entitled to the protection of the Bombay Rent Act. He relied upon the decision of the Full Bench of this court in S.W.Shah and ors vs. Shaha Navaz Hanif Saheb Bhokare and ors, AIR l986 Bombay 5 wherein it was held that it was not necessary to issue fresh notification for application of Part II and Part III of the Bombay Rent act to the area included in the municipal limits and the provisions of the Bombay Rent Act would apply automatically to the extended area. Therefore according to the learned counsel the district court ought to have allowed the appeal and dismissed the suit filed by the landlord.

. It is not possible to accede to the submission made by the learned counsel for the petitioner. It is true that upon inclusion of the suit premises in the municipal limits the provisions of the Bombay Rent Act would automatically apply to the extended area but the question is whether the tenant is entitled to the benefit of the provisions of Part II of the Bombay Rent Act when the Act was applicable after the decree for possession was passed by the trial court. In Ramdas vs Monica. 76 Bombay Law Reporter 394, the Full Bench of this court has held that on later extension of Part II

to that area, the provisions of the Act will not apply to the appeals pending on the date on which the provisions of Part II are applied. It was held that the Act does not apply to the appeals pending on the date on which the provisions of Part II of the Act were applied to the premises which were the subject matter of the proceedings. Under the circumstances the petitioner is not entitled to the benefit of the provisions of Part II of the Act as at the time when the eviction order was passed by the trial court, the provisions of the said Part were not made applicable to the premises.

. In the result, the petition is dismissed.